

ADMINISTRATIVE PANEL DECISION

Unipolsai Assicurazioni S.p.A. v. tiziana murado
Case No. D2023-5267

1. The Parties

The Complainant is Unipolsai Assicurazioni S.p.A., Italy, represented by Bugnion S.p.A., Italy.

The Respondent is Tiziana Murado, Italy.

2. The Domain Name and Registrar

The disputed domain name <assicura-unipolsai.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 19, 2023. On December 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 20, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 28, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on December 28, 2023.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on January 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 31, 2024.

The Center appointed Luca Barbero as the sole panelist in this matter on February 7, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant, founded in January 2014, is a multi-branch insurance company and a subsidiary of Unipol Gruppo S.p.A.

The Complainant is listed on the electronic stock market (Mercato Telematico Azionario, or MTA) of the Italian Stock Exchange. It is operating in Italy with over 2.100 agencies and more than 5.000 sub-agencies through which it offers a range of insurance solutions to over 16 million customers. In 2022, the Complainant's direct income totaled EUR 13.6 billion, of which EUR 8.3 billion in non-life business and EUR 5.3 billion in life business.

The Complainant provides direct insurance through Linear Assicurazioni, and health insurance through the specialized company UniSalute, and is also overseeing the bank insurance channel, through Arca Vita e Arca Assicurazioni, that distribute life and non-life policies through national banking groups.

The Complainant is the owner of several trademark registrations for UNIPOLSAI, including the following, as per trademark certificates submitted as Annex 4 to the Complaint:

- Italian trademark registration No. 362022000146688 for UNIPOLSAI (word mark), filed on October 18, 2022, and registered on February 23, 2023, renewal of the trademark originally filed on December 19, 2012 and registered with No. 0001552597 on July 31, 2013, in classes 9, 16, 35 and 36;
- International trademark registration No. 1158882 for UNIPOLSAI (word mark), registered on January 25, 2013, in classes 9, 16, 35 and 36;
- Italian trademark registration No. 302021000099950 for UNIPOLSAI ASSICURAZIONI (figurative mark), filed on May 27, 2021, and registered on January 3, 2022, in classes 9, 16, 35, 36 and 41;
- European Union Trade Mark registration No. 018479175 for UNIPOLSAI ASSICURAZIONI (figurative mark), filed on May 26, 2021, and registered on September 30, 2021, in classes 9, 16, 35, 36 and 41.

The Complainant is also the owner of the domain names <unipolsai.it>, registered on March 8, 2012, and <unipolsai.com>, registered on November 20, 2012, both used by the Complainant to promote its services under the trademark UNIPOLSAI.

The disputed domain name <assicura-unipolsai.com> was registered on September 13, 2023, and currently resolves to a website displaying a logo "Mooney", a cell phone number and a link "Prenota ora" ("Reserve now", in Italian) leading to a contact form where users are requested to insert their telephone number and email address to deliver a message to the website administrator. The copyright line reads "© 2023 - 2024 assicura_unipolsai".

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the trademark UNIPOLSAI in which the Complainant has rights as it reproduces the trademark in its entirety with the mere addition of the descriptive term “assicura” (“insure”, in Italian).

The Complainant underlines that the term “assicura” is descriptive of the Complainant’s services and submits that the addition of this term, does not effectively distinguish the disputed domain name from the Complainant’s trademarks, nor does it dispel confusion, since users may be led to presume that the disputed domain name could in some way be associated to the Complainant, which it is not.

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant states that considering UNIPOLSAI is an invented word, which is not in any way descriptive or generic for the products and services offered under the relative mark, traders would not legitimately choose to use this term unless seeking to create an impression of association with the Complainant.

The Complainant states that the Respondent is in no way licensed or otherwise permitted to use the Complainant’s marks but has nevertheless chosen to register the disputed domain name associating it to a website promoting an undefined service called Mooney. The Complainant submits that the website provides a contact form and a cellphone number which has been associated on numerous occasions to online scams according to the online searches performed by the Complainant.

In view of the above, the Complainant submits that the Respondent may be exploiting the Complainant’s trademark to drive traffic to its website, whilst misleading Internet users and acquiring sensitive or valuable information. The Complainant concludes that such conduct demonstrates that the Respondent is not making a legitimate non-commercial or fair use of the disputed domain name.

With reference to the circumstances evidencing bad faith, the Complainant indicates that considering the UNIPOLSAI mark could in no way have been chosen by chance to form the dominant part of the disputed domain name, that the Complainant’s trademarks predate the registration of the disputed domain name and that the Complainant has a widespread reputation in its field, the Respondent must have been well aware of the Complainant and its services at the time of registering the disputed domain name.

The Complainant further states that, since the disputed domain name currently resolves to a webpage in Italian, consisting exclusively of a contact form with no specific reference to a commercial activity, the Respondent not only acted in opportunistic bad faith, but also intended to create a likelihood of confusion by suggesting that the disputed domain name may have been in some way related or associated to the Complainant.

The Complainant also asserts that, though it has no certainty that the Respondent’s website may be used for illegal activities, it does suspect that considering the above, the disputed domain name may in some way be used to conduct phishing or other fraudulent acts.

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

According to paragraph 15(a) of the Rules: “A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.” Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) that the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Indeed, the Complainant has provided evidence of ownership of valid trademark registrations for UNIPOLSAI (Annex 4 to the Complaint).

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other term "assicura" ("insure" in Italian) may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Therefore, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

According to the evidence on record, there is no relationship between the Complainant and the Respondent, and the Complainant has not authorized the Respondent to register or use its trademark or the disputed domain name.

Moreover, there is no element from which the Panel could infer the Respondent's rights and legitimate interests over the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

The disputed domain name is pointed to a website providing a cell phone number and a contact form for reservation purposes and displaying the copyright line “© 2023 - 2024 assicura_unipolsai”, without including any disclaimer of non-affiliation with the Complainant.

The Panel notes that the Respondent’s use of the disputed domain name may mislead users into believing that the Respondent’s website is operated by the Complainant or one of its affiliated entities and finds that such use does not amount to a bona fide offering of goods or services or a legitimate non-commercial or fair use without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant’s trademark.

Moreover, the disputed domain name, combining the Complainant’s trademark UNIPOLSAI with the term “assicura” (“insure” in Italian), which is descriptive of the Complainant’s insurance services, is inherently misleading. Even where a domain name consists of a trademark plus an additional term, UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

Therefore, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that, in light of the prior registration and use of the Complainant’s trademark UNIPOLSAI in connection with the Complainant’s insurance services, including in Italy where the Respondent is based, and considering the composition of the disputed domain name, combining the Complainant’s trademark with the descriptive term “assicura” (meaning “insure” in Italian), the Respondent very likely registered the disputed domain name having the Complainant’s trademark in mind.

Moreover, considering the Complainant’s notoriety and goodwill, the Panel finds the Respondent acted in opportunistic bad faith at the time of registering the disputed domain name, since the disputed domain name is so obviously connected with the Complainant and the UNIPOLSAI mark that its very selection by the Respondent, which has no connection with the Complainant, suggests the disputed domain name was registered with a deliberate intent to create an impression of an association with the Complainant.

The Panel also finds that, in view of the Respondent’s use of the disputed domain name in connection with a website apparently promoting an unspecified service and providing a cell phone number and a contact form for reservation purposes without displaying any disclaimer of non-affiliation with the Complainant, the Respondent intentionally attempted to attract Internet users to its website, likely for commercial gain, by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation or endorsement of its website according to paragraph 4(b)(iv) of the Policy.

As stated in section 3.1.4 of the [WIPO Overview 3.0](#), “Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Panels have moreover found the following types of evidence to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant’s mark: (i) actual confusion, (ii) seeking to cause confusion [...], (iii) the lack of a respondent’s own rights to or legitimate interests in a domain name, [...], and (vi) absence of any conceivable good faith use”.

Therefore, the Panel finds that the Complainant has established the third element of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <assicura-unipolsai.com> be transferred to the Complainant.

/Luca Barbero/

Luca Barbero

Sole Panelist

Date: February 21, 2024